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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,246	01/03/2002	Arthur W. Brooking	MS155556.1	7885

7590 07/05/2006

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EXAMINER	
TRUONG, LAN DAI T	
ART UNIT	**PAPER NUMBER**
2152	

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/038,246	BROOKING ET AL.	
	Examiner	Art Unit	
	Lan-Dai Thi Truong	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *03* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 April 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) *2 and 5* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1,3,4 and 6-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 January 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is response to communications: application, filed 01/03/2002; amendment filed 04/11/2006. Claims 1-20 are pending; claims 1, 4, 8, 9-10, 20 are amended; claims 2, 5 are cancelled;

Response to Arguments

2. Applicant's arguments, filed 12/02/2005 have been fully considered; but they are moot in view with new ground for rejection

Claim rejections-35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or descry bed as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3-4, 7, 19-20 are rejected under 35 U.S.C 103(a) as being un-patentable over Sheldon et al. (U.S. 2003/0081125) in view of Flowers et al. (U.S. 6,957,348)

Regarding to claim 1:

Sheldon discloses a system, which can be implemented in a computer hardware or software code for network diagnostic, comprising:

Accessing raw real-time network data: (Sheldon discloses a diagnostic tools for accessing "real time audio visual data" which is equivalent to "raw real-time network data": abstract, lines 5-8; [0006], lines 1-4; [0009], lines 1-2; [0017], lines 1-14)

Selecting providing subsets of the raw real-time network data to protocol state compressors; the protocol state compressor to analyze the respective data subsets: (Sheldon discloses the video packets transmitted to "diagnostic node" which caries functionality of "state compressor" to analyze the performance of video device: [0008]-[0009]; [0017]-[0018])

Diagnosing heath status of a system based at least in part upon the analysis of at least one of the protocol state compressor: (Sheldon discloses the diagnostic node analyzes audio visual data passed through the network to determine performance statistics information and provides "the results of the analysis" which is equivalent to "Diagnosing heath status" of video device such as status of connections between the video device and endpoints: [0004]; [0017]-[0018])

However, Sheldon does not explicitly disclose the data stream monitor component utilizes at least one lexical rule set associate with at least one protocol state compressor to determine subsets of the raw network data to copy, the at least one lexical rule set stores at least one of information regarding structure of subset data and protocol specific information

In analogous art, Flowers discloses a network detection system, which is used to check network conditions; the network detection system using a set of lexical rules for analyzing network performance. The lexical rules define protocols, conditions for network performance: column 2, lines 20-60)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Flowers's ideas of using lexical rules for analyzing network condition with Sheldon's system in order to provide a secure and efficient network monitoring system

Regarding to claim 4:

This claim is rejected under rationale of claim 1

Regarding to claim 19:

This claim is rejected under rationale of claim 1

Regarding to claim 20:

This claim is rejected under rationale of claim 1

Regarding to claim 3:

This claim is rejected under rationale of claim 1

Regarding to claim 7:

Sheldon- Flowers discloses a method as discuss in claim 4, which further includes providing information to a user regarding the health status of the system: (Sheldon discloses the step of reporting "performance statistic" which is equivalent to "health status" to the server: page 4, left column, lines 5-6)

Claim 6 is rejected under 35 U.S.C 103(a) as being un-patentable over Sheldon-Flowers in view of Bereiter et al. (U.S. 6,357,017)

Regarding to claim 6:

Sheldon- Flowers discloses the invention substantially as claim 4, comprising:

Diagnosing a network connectivity problem based at least in part upon the analysis of at least one of the protocol state compressors: (Sheldon discloses the diagnostic node analyzes audio visual data passed through the network to determine performance statistics information and provides "the results of the analysis" which is equivalent to "Diagnosing heath status": [0017], lines 10-14; [0018, lines 8-10)

However, Sheldon- Flowers does not explicitly discloses method of initiating corrective action associated with network connectivity problem

Bereiter discloses method of diagnostic and correcting, see (Bereiter: abstract, lines 16; column 1, lines 46-59; column 2, lines 24-40)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Bereiter's ideas of problem resolution with Sheldon- Flowers's system in order to efficiency diagnostic system.

Claims 8-14 are rejected under 35 U.S.C 103(a) as being un-patentable over Sheldon in view of Flowers et al. (U.S. 6,957,348), and further in view of Kerft et al. (U.S. 5,442,170)

Regarding to claim 8:

Sheldon discloses the invention substantially as claimed, including a method, which can be implemented in a computer hardware or software code for facilitating network diagnostics, comprising:

A data stream monitor that access real-time network data: (Sheldon discloses a diagnostic tools for accessing "real time audio visual data" which is equivalent to "raw real-time network data": abstract, lines 5-8; [0006], lines 1-4; [0009], lines 1-2; [0017], lines 1-14)

A diagnostic engine having a plurality of protocol state compressor: (Sheldon discloses the video packets transmitted to "diagnostic node" which caries functionality of "state compressor" to analyze the performance of video device: [0008]-[0009]; [0017]-[0018])

The protocols state compressor analyzes their respective subsets of data received from the data stream distribution engine; receiving results of analysis to detect system problem: (Sheldon discloses the diagnostic node analyzes audio visual data passed through the network to determine performance statistics information and provides "the results of the analysis" which is equivalent to "Diagnosing heath status" of video device such as status of connections between the video device and endpoints: [0004]; [0017]-[0018])

However, Sheldon does not explicitly disclose accessing at least one lexical rule set coinciding with a protocol to be monitored by a corresponding protocol state processor; utilizing at least in part upon the corresponding lexical rule set to facilitate diagnosis of health status of a system: (Sheldon discloses the compatible protocol between "diagnostic node" which caries functionality of "state compressor" and the audio visual data: [0018], lines 1-5)

In analogous art, Flowers discloses a network detection system, which is used to check network conditions; the network detection system using a set of lexical rules for analyzing network performance. The lexical rules define protocols, conditions for network performance: column 2, lines 20-60)

However, Sheldon- Flowers does not explicitly disclose multiplexing the copied raw data frames; de-multiplexing the copied raw data frames

Kreft discloses the diagnostic equipment includes multiplexer, see (Kreft: column 2, lines 7-8)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate Flowers's ideas of using lexical rules for analyzing network connection and Kreft's ideas of including a multiplexer in the diagnostic equipment with Sheldon's system in order to provide a secure and efficient network monitoring system

Regarding to claim 13:

This claim is rejected under rationale of claim 8

Regarding to claim 12:

This claim is rejected under rationale of claim 8

Regarding to claims 9-11:

This claim is rejected under rationale of claim 8

Regarding to claim 14:

In addition to rejection in claim 13, Sheldon- Flowers- Kreft further discloses determining whether an additional protocol to be monitor has been added; and adding protocol state compressor and corresponding lexical rules set associated with the additional protocol: (Flowers: column 4, lines 30-49)

Claim 16 is rejected under 35 U.S.C 103(a) as being un-patentable over Sheldon-Flowers-Kerft in view of Korkosz et al. (U.S. 6,781,513)

Regarding to claim 16:

Sheldon- Flowers-Kerft discloses the invention substantially as disclosed in claim 13, but does not explicitly teach at least one of the following acts:

Storing historical information regarding the health status of the network activity, Determining potential sources of a problem associated with network connectivity; Accessing historical information regarding the health status of network connectivity: (Read/Write memory stores history of the system performance: column 5, lines 66-67; column 6, lines 1-12)

Calculating a probability of utility based at least in part upon the potential sources on the problem and accessed historical information: (column 4, lines 35-67; column 5, lines 1-65)

Consecutively initiating corrective action based at least in part upon the probability of utility: (monitoring the performance of equipment and system in order to initiate a maintenance cycle: column 1, lines 38-45)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Korkosz's ideas of storing history of system performance and calculation error rate based on the history with Sheldon- Flowers-Kerft's system in order to provide efficiency maintenance service, see (Korkosz: column 1, lines 23-36)

Claim 15 is rejected under 35 U.S.C 103(a) as being un-patentable over Sheldon-Flowers-Kerft in view of Korkosz and further in view of Morgan et al. (U.S. 2002/0144187)

Regarding to claim 15:

Sheldon- Flowers-Kerft discloses the invention substantially as disclosed in claim 13, but does not explicitly teach initiating corrective action based at least in part upon the correlation information

However, Korkosz discloses method for monitoring the performance of equipment and system in order to initiate a maintenance cycle, see (Korkosz: column 1, lines 38-45)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Korkosz's ideas of storing history of system performance and calculation error rate based on the history with Sheldon- Flowers-Kerft's system in order to provide efficiency maintenance service, see (Korkosz: column 1, lines 23-36)

However, Sheldon- Flowers-Kerft - Korkosz does not explicitly discloses providing information to user regarding the health status of network connectivity

Morgan discloses a self-healing system comprises a diagnostic component adapted to determine at least one network attribute and to render the network attribute to a user, see (Morgan: abstract, lines 1-16)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Morgan's ideas of render the network attribute to a user with Sheldon- Flowers-Kerft - Korkosz's system in order to provide real-time network attribute to the user

Claims 17-18 are rejected under 35 U.S.C 103(a) as being un-patentable over Bereiter et al. (U.S. 6,357,017) in view of Morgan et al. (U.S. 2002/0144187)

Regarding to claim 17:

Bereiter discloses the invention substantially as claimed, including a system, which can be implemented in a computer hardware or software code for facilitating network diagnostics, comprising:

A plain language notification data information store storing plain language notification information associate with plurality of potential server problem; A protocol specific event

information data store storing information associated with server health status: (Bereiter discloses a diagnostic engine used to generate a data set indicative of a current operating state of "the client machine" which is equivalent to "server": abstract, lines 1-17; column 1, lines 45-59; column 2, lines 24-52)

However, Bereiter does not explicitly disclose a Self healing component adapted to analyze information stored in the protocol specific event information to determine at least one of appropriate corrective action and appropriate plain language notification, the plain language notification based at least in part upon information stored in the plain language notification data store

However Morgan discloses self-healing system used to diagnostic a system. The self-healing system also provides fixing methods: [0010])

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Morgan's ideas of using Self healing component adapted to determine at least one of appropriate corrective action with Bereiter's system in order to reduce a mount of time spent troubleshooting a network computer, see (Morgan: [0007])

Regarding to claim 18:

This claim is rejected under rationale of claim 17

Conclusions

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan-Dai Thi Truong whose telephone number is 571-272-7959. The examiner can normally be reached on Monday- Friday from 8:30am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob A. Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ldt,
06/24/2006

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SUPERVISORY PATENT EXAMINER